

## **ORDINANCE NO. 403**

**AN ORDINANCE AMENDING THE DEVELOPMENT STANDARDS ASSOCIATED WITH A PLANNED DEVELOPMENT DISTRICT ZONING OF SINGLE FAMILY RURAL RESIDENTIAL USE ("PDD-SF-RR") OF AN APPROXIMATE 94.417 ACRE TRACT OF LAND SITUATED IN THE J. REYNOLDS SURVEY, NO. 44, ABSTRACT NO. 664 IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND GENERALLY LOCATED NORTH OF HAMILTON POOL ROAD AND 900-FEET WEST OF CUEVA DRIVE, AS MORE FULLY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO, AND AS DEPICTED IN EXHIBIT "B", THE CONCEPT PLAN, IN THE CITY OF BEE CAVE, TEXAS; AND PURSUANT TO THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT, DATED MAY 14, 2019, DESCRIBED HEREIN IN EXHIBIT "C", ATTACHED HERETO BETWEEN THE CITY OF BEE CAVE, AND SATURN FIVE SIGNAL HILL, LCC, SUCESSORS IN INTEREST TO GRUMBLES DEVELOPMENT, LP;; MAKING PROVISION FOR COMPLIANCE WITH THE CITY'S CODE OF ORDINANCES AS MODIFIED BY THIS ORDINANCE AND THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND AUTHORIZING THE CITY MANAGER TO ESTABLISH THE ZONING ON THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PROPER NOTICE AND MEETING; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Owner of the land described in Exhibit "A" attached hereto, consisting of approximately 94 acres (the "Property") have requested that certain development standards associated with the zoning of the Property in Ordinance No. 353 be amended;

**WHEREAS**, the Property described herein was previously included in a Development Agreement dated August 8, 2017, as amended on May 14, 2019 between the Grumbles Development L.P. and various other owners and the City;

**WHEREAS**, Saturn Five Signal Hill LLC (the "Property Owners") as the successors in interest to Grumbles Development. L.P. intend to develop the Property as a master-planned rural residential community in accordance with the Amended and Restated Development Agreement, attached hereto as Exhibit "C" and as depicted in Exhibit "B" the Concept Plan which are attached hereto and incorporated herein (the "Project"); and

**WHEREAS**, the notices as required by the City's Zoning Ordinance have been published in the official newspaper and sent to adjacent property owners as provided by state law; and

**WHEREAS**, public hearings have been held by both the Planning and Zoning Commission and the City Council as required by law and the City Council has taken into account the comments received in the public hearings; and

**WHEREAS**, Section 32.03.015 of the City's Zoning Ordinance provides that the purpose of a Planned Development District is to provide for the development of land as an integral unit for single or mixed use in accordance with a Planned Development Concept Plan ("Concept Plan") that may include uses, regulations and other requirements that vary from the provisions of other zoning districts, and to encourage flexible and creative planning to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community;

**WHEREAS**, a complete application for amendment of the zoning for the Property as described herein has been submitted to the City;

**WHEREAS**, the Property Owners have requested that the zoning be approved in accordance with the Amended and Restated Development Agreement as described in Exhibit "C", this Ordinance and in Exhibit "B"; and

**WHEREAS**, the City finds that the developments standards described in the Amended and Restated Development Agreement as modified herein, accomplish the purposes of a Planned Development District as required in Sec. 32.03.015.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:**

**SECTION 1.** Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** Amendment. That the City Zoning Ordinance of the City of Bee Cave, Texas, be and the same are hereby amended so as to grant a change to development standards as reflected in Exhibit "C" for the Property described in Exhibit "A".

**SECTION 3.** Development. That the Property shall be developed in compliance with the Amended and Restated Development Agreement except as otherwise modified by this Ordinance. A copy of the Amended and Restated Development Agreement is attached hereto as Exhibit "C".

**SECTION 4.** Concept Plan. That the Concept Plan for this Planned Development District which is attached hereto as Exhibit "B" and which is made a part hereof for all purposes is hereby approved for said Planned Development District as required by Chapter 32, of the Code of Ordinances of the City of Bee Cave, Texas.

**SECTION 5.** Uses. Only those uses specifically described in the Amended and Restated Development Agreement, as modified by this Ordinance shall be authorized uses in accordance with the Concept Plan. Any other uses ordinarily allowed in a SF-RR District shall be authorized if approved by the City in a subsequent amendment to the Concept Plan and this Ordinance, because the Development Standards described in the Amended and Restated Development Agreement and described herein are specific to the proposed Project based upon the proposed lay out of lots, the size of the lots, and the other Development Standards afforded to this Project. The authority granted by this Ordinance is therefore specific to the Project that has been represented in

the Owner's and Developer's application and as depicted in the Concept Plan and as described in the associated Development Standards.

**SECTION 6.** Amendments to Development Standards. All changes to the overall Project or any expansion of uses for the Project require an amendment to this Ordinance and to the Concept Plan (unless considered "Minor Changes"). However, any changes in the Development Standards not associated with a change in use or overall changes to the Project and that are approved by City Council in a subsequent site plan or plat approvals shall not require an amendment to this Ordinance. In such cases, Property Owner shall provide City with updated and accurate Concept Plans reflecting such changes.


**SECTION 7.** Project buildings shall be constructed in accordance with Exterior Construction Standards contained in the City's Code of Ordinances and as described in the Amended and Restated Development Agreement described in Exhibit "C", attached hereto.

**SECTION 8.** Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjusted or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of Chapter 32, Zoning, of the City of Bee Cave Code of Ordinances and Map as a whole.

**SECTION 9.** Effective Date. That this Ordinance shall take effect immediately from and after its passage.

**SECTION 10.** Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by the City Council of the City of Bee Cave, Texas, on the 14<sup>th</sup> day of May, 2019.

  
Monty Parker, Mayor

ATTEST:

  
Kaylynn Holloway, City Secretary

Approved as to Form:



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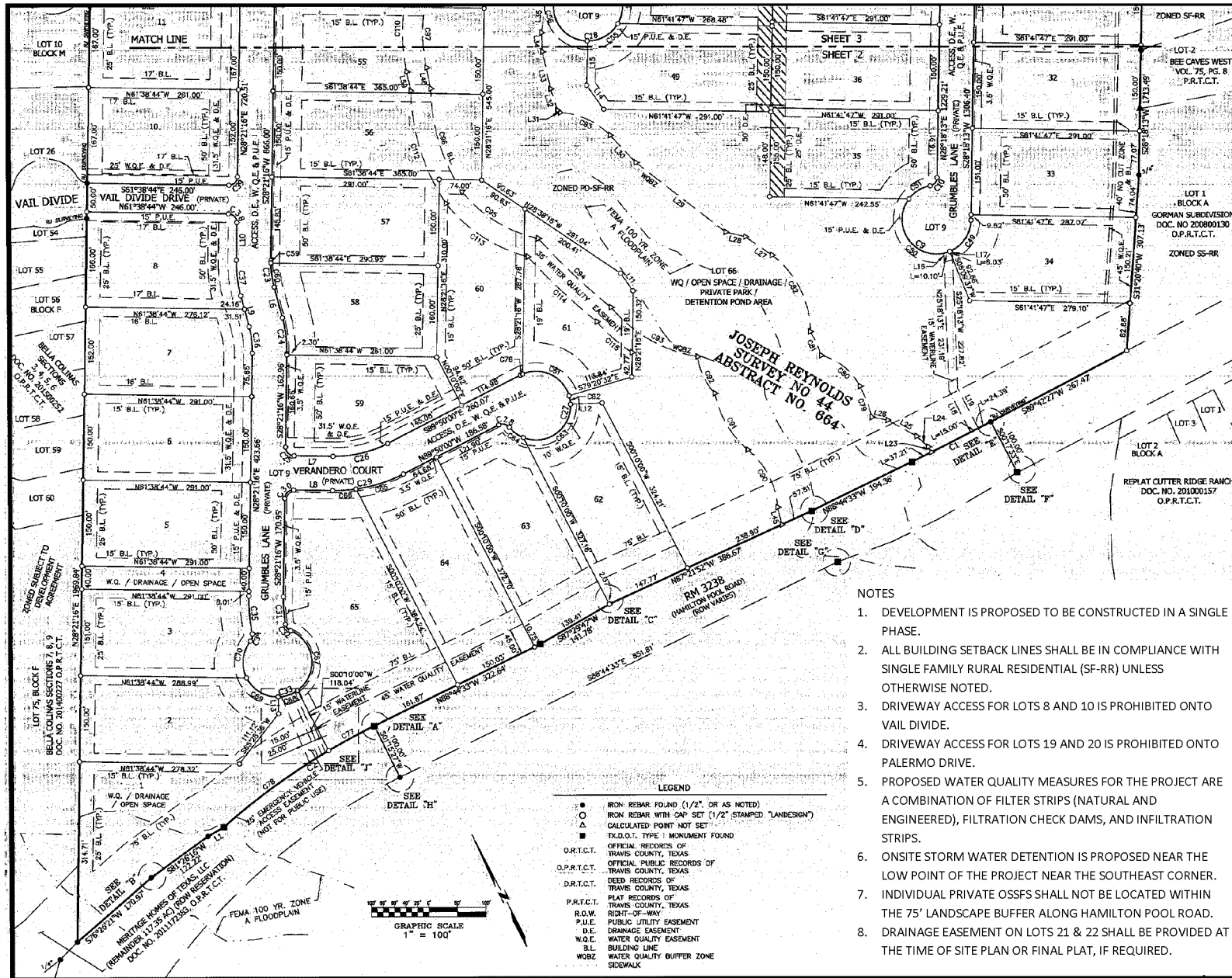
Patty L. Akers, City Attorney

**Exhibit "A"**  
**Property Description**

94.42 acres comprising the entirety of land contained in the Signal Hill Subdivision Final Plat, as recorded in Document # 201800113 of the Official Public Records of Travis County, TX.

**Exhibit "B"**  
**Concept Plan**

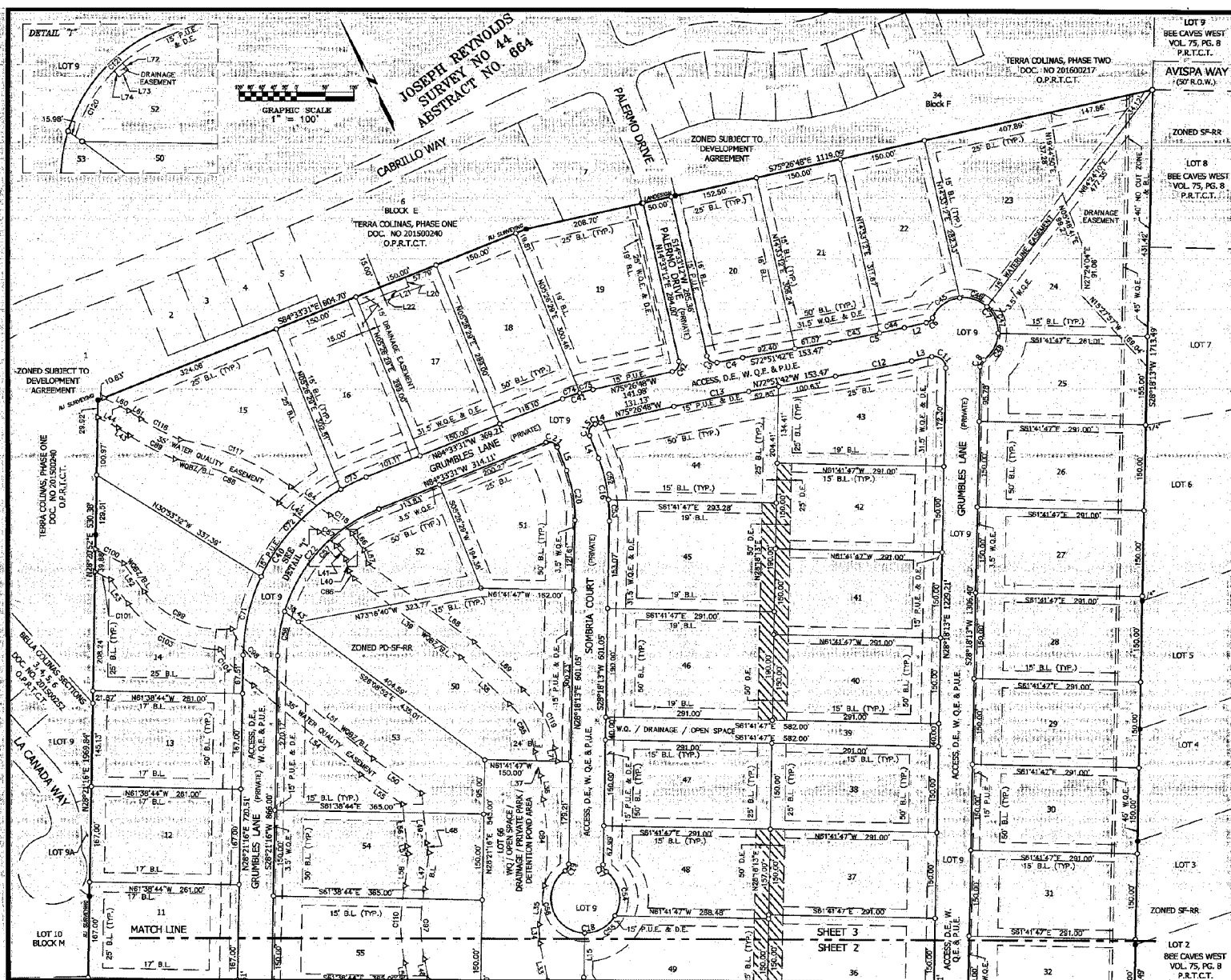
Enclosed herein.



# SIGNAL HILL CONCEPT PLAN

## NOTES

1. DEVELOPMENT IS PROPOSED TO BE CONSTRUCTED IN A SINGLE PHASE.
2. ALL BUILDING SETBACK LINES SHALL BE IN COMPLIANCE WITH SINGLE FAMILY RURAL RESIDENTIAL (SF-RR) UNLESS OTHERWISE NOTED.
3. DRIVEWAY ACCESS FOR LOTS 8 AND 10 IS PROHIBITED ONTO VAIL DIVIDE.
4. DRIVEWAY ACCESS FOR LOTS 19 AND 20 IS PROHIBITED ONTO PALERMO DRIVE.
5. PROPOSED WATER QUALITY MEASURES FOR THE PROJECT ARE A COMBINATION OF FILTER STRIPS (NATURAL AND ENGINEERED), FILTRATION CHECK DAMS, AND INFILTRATION STRIPS.
6. ONSITE STORM WATER DETENTION IS PROPOSED NEAR THE LOW POINT OF THE PROJECT NEAR THE SOUTHEAST CORNER.
7. INDIVIDUAL PRIVATE OSSFS SHALL NOT BE LOCATED WITHIN THE 75' LANDSCAPE BUFFER ALONG HAMILTON POOL ROAD.
8. DRAINAGE EASEMENT ON LOTS 21 & 22 SHALL BE PROVIDED AT THE TIME OF SITE PLAN OR FINAL PLAT, IF REQUIRED.



# ***SIGNAL HILL CONCEPT PLAN***



**Exhibit "C"**  
**Amended and Restated Grumbles Development Agreement adopted by**  
**City of Bee Cave on May 14, 2019**

**AMENDED AND RESTATED SIGNAL HILL  
PLANNED DEVELOPMENT AGREEMENT**

THE STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS                   §

THIS AMENDED AND RESTATED PLANNED DEVELOPMENT AGREEMENT (the “2019 PDA”) is between Saturn Five Signal Hill, LLC (“Owner”) and the City of Bee Cave (“City”) and is intended to amend and restate that certain PLANNED DEVELOPMENT AGREEMENT (the “2017 PDA”) effective on August 8, 2017. The 2019 PDA is hereby made effective on the 14<sup>th</sup> day of May, 2019.

**INTRODUCTION**

Owner, herein, is the successor in interest to Grumbles Development, LP, (described as developer in the 2017 PDA) and Owner is also the successor in interest to the property owners named in the 2017 PDA. Other than Owner, no other parties have any right, title, or interest in the 94.42 acres (the “Property”) described in this 2019 PDA. The Property is more particularly described in **Exhibit “A”**, attached hereto . This 2019 PDA applies only to the Property described in Exhibit “A” and the parties described herein. Any previous development agreements which may have included property other than described herein, remain in effect, if applicable, to such remaining property and to such other parties, if any.

Any annexation requirements associated with the Property per a prior PDA affecting the Property have been satisfied and the Property has been fully annexed into the City of Bee Cave city limits.

Owner intends that the Project be developed on the Property in accordance with the terms of this 2019 PDA . The Project includes 61 single family rural residential lots of one acre or greater.

**NOW THEREFORE**, for good and value consideration, the receipt and sufficiency of which is hereby acknowledge and confessed, the parties agree as follows:

**I.**

**DEFINITIONS**

**1.01 Definitions.** Unless specifically defined elsewhere by this Agreement, a word or term listed in this section has the following meaning:

“**City Council**” shall mean the Mayor and Council members of the City.

**“City Manager”** shall mean the City Manager of the City

**“Code of Ordinances”** shall mean the Code of Ordinances of the City.

**“Project”** shall mean development of the Property as a single family rural residential subdivision as shown and described on the Concept Plan attached hereto as Exhibit “B” and zoning ordinance No. 403, which is proposed for amendment as described in **Exhibit “C”**, attached hereto.

**“Property Owner(s)”** shall mean the current owners of the Property and their successors and assigns.

**“Property”** shall mean that certain 94.42 acre tract of land more particularly described in **Exhibit “A”** and platted as Signal Hill Subdivision and Recorded in Doc. No. 201800113, Official Public Records, Travis County, Texas.

**“Signal Hill Subdivision”** shall mean that certain subdivision of Property Recorded in Doc. No. 201800113, Official Public Records, Travis County, Texas.

**“2019 PDA”** shall mean this Agreement.

Any terms which are used herein and which are defined in the Code of Ordinances shall have the meaning ascribed to them in the Code of Ordinances unless same are expressly defined in this Agreement in which case the definition contained herein shall control. Capitalized terms which are used and defined in this Agreement shall have the meaning ascribed to them in this Agreement.

## **II.**

### **COMPLIANCE WITH CITY REGULATIONS**

**2.01 Requirements.** The City and Owner acknowledge and agree that except as expressly waived, modified or abated by this Agreement (and Zoning Ordinance No. 403, Exhibit “C” hereto, and adopted pursuant to the terms of this Agreement), all of the City’s laws, ordinances (including, without limitation, subdivision ordinances), codes, regulations, requirements, technical construction standards, and development review procedures and processes (collectively, the **“Requirements”**) in effect on the effective date of this 2019 PDA and applicable to the Property shall immediately apply to any and all development activity undertaken on the Property (or any portion of the Property) in connection with the Project.

Notwithstanding the foregoing terms of this Article II, the Requirements, and the SF-RR Requirements with respect to the following the following shall apply to development activity on the Property, as they are enacted and/or amended by the City from time to time:

- (i) Municipal zoning regulations that do not affect lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

- (ii) Regulations for sexually oriented businesses;
- (iii) Fees imposed in conjunction with development permits;
- (iv) Regulations for annexation;
- (v) Regulations for utility connections;
- (vi) Regulations to prevent imminent destruction of property or injury to persons, including regulations effective only within a flood plain established by federal flood control programs and enacted to prevent the flooding of buildings intended for public occupancy;
- (vii) Construction standards for public works located on public lands or easements; and
- (viii) Ordinances incorporating uniform building, fire, electrical, plumbing, and/or mechanical codes, adopted by a national code organization, and/or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons.

### **III.**

#### **MASTER DEVELOPMENT PLAN**

##### **3.01 Concept Plan.**

(a) The City hereby confirms that the Concept Plan has been approved by all requisite City administrative staff and the City Council, and the City agrees that the Concept Plan generally complies with the City's Comprehensive Plan, as amended. The City's approval of the Concept Plan constitutes the acknowledgement that the Project is consistent with the City's Comprehensive Plan, as amended. Such approval does not constitute the City's agreement that any specific portion of the Project conforms to the Requirements. No specific development contemplated by, or indicated on, the Concept Plan may be undertaken or commenced unless same complies, and has been approved by the City in accordance with the procedures set forth in the Requirements. The Concept Plan shall be effective for the term of this 2019 PDA. The City's Subdivision Ordinance, except as expressly modified herein, shall control the configuration, location and concentration of lots within the Property and approval of the configuration, location and concentration of the single-family lots will occur within the City's ordinary process for subdivision and plat approval.

(b) Developer must submit any proposed change to the Concept Plan to the City for approval. If the change is a Minor Change, then approval or denial may be given by the City Manager. If the change is not a Minor Change, then approval of such change must be sought in accordance with the procedures, processes and provisions of the Requirements, including, without limitation of the Code of Ordinances.

(c) For purposes of this Agreement, a “**Minor Change**” shall mean any change described as a Minor Change in Section 32.02.006(k)(5) of the Code of Ordinances and the following:

- (i) adjustments to lot dimensions so long as the lot width does not decrease below 150 feet (the minimum lot width is not applicable to cul-de-sac lots);
- (ii) adjustments to the number of single family lots so long as the number of single family lots does not exceed 61. This provision shall not negate the requirement for plat or replat approval by the City.
- (iii) adjustments to the length or location of the proposed right-of-way if the adjustment affects less than twenty percent (20%) of the total length of right-of-way.

**3.02 Review Process.** All applications for approval shall be reviewed for administrative completeness and upon acceptance of the application as being complete will be reviewed for technical sufficiency. For purposes of this Section 3.02, completeness of any application and technical sufficiency will be evaluated in accordance with the Requirements.

**3.03 Zoning.** This Agreement is subject to the terms of Ordinance 403 (the **PD Zoning Ordinance**) attached hereto as **Exhibit “C”**. Said ordinance requires design and construction of the Project in accordance with the existing Single Family Rural Residential zoning standards with the exceptions described in this Agreement and any exception more specifically set out in **Exhibit “C”** to the PD Zoning Ordinance.

**3.04 Other Development Criteria.** Any and all development activity undertaken on the Property in connection with the Project must be done in strict compliance with the Requirements, as the same may be expressly modified by this Agreement (including, without limitation, the PD Zoning Ordinance) and the following other development criteria, which criteria are (i) intended to modify the Requirements as they relate to the Project, and (ii) are hereby approved by the City.

(a) There shall be a maximum of 61 single family lots approved for the Project. There shall be a maximum of 34 single family lots located around the perimeter of the Project, as depicted in the Concept Plan. All lots are a minimum of one (1) acre in size per the Requirements. Cul-de-sac lots shall have a minimum width of fifty feet (50’) measured by 35 feet (35’) from the front of the lot. Front yard setbacks shall be per the Requirements, fifty feet (50’). Side yard setbacks shall be per the Requirements (10% of the lot width, but not to exceed 25’). Rear yard setbacks shall be per the requirements (25’) except that the rear yard setback shall be forty feet (40’) where those lots abut Bee Caves West Subdivision. The setback for all lots that adjoin Hamilton Pool Road shall be seventy five feet (75’). Developer may in conjunction with site plan approval request a reduction in setbacks on a lot by lot basis if necessary to save a specimen tree. All houses shall front on interior roadways or joint use driveways and no houses shall front on Hamilton Pool Road except as otherwise approved by the City Council, the Project shall not have access directly to Hamilton Pool Road. Driveway Access for Lots 6 and 7 shall be prohibited onto Vail Divide. Driveway Access for Lots 16 and 17 is prohibited onto Palermo Drive.

(b) Developer shall provide and dedicate approximately 1.0 acre as private parkland to meet the City's parkland dedication requirements. Developer shall provide for construction and maintenance of all trails that are depicted on the Concept Plan as well as recreation facilities at the private park(s) such as benches, picnic tables and swings. A maintenance plan for trails shall be considered by the City in conjunction with site plan approval. The private park and trails shall satisfy all parkland dedication Requirements for the Project.

The Project shall maintain a seventy five foot (75') buffer zone along Hamilton Pool Road. No structures or improvements except for underground public utilities, landscaping, water quality measures (such as filter strips, infiltration strips and infiltration berms), irrigation facilities and trails at the locations depicted in the Concept Plan are authorized. Landscaped earth berms associated with detention ponds or for screening of homes from Hamilton Pool Road shall be authorized within the 75' buffer zone. Exact location and dimensions of such berms shall be considered for approval in conjunction with site plan approval. OSSFs shall not be located within the 75' buffer zone along Hamilton Pool Road. Modification to existing drainage facilities within the buffer shall be authorized as required to accommodate the Project drainage/detention requirements.

(c) All drainage easements, vegetative filter strips and water quality best management controls shall be located in a dedicated easement. Drainage easements, trails, water quality and detention ponds, vegetative filter strips, materials or fences that demarcate the boundary of WQBZ and all other improvements that serve the Project as a whole shall be maintained by a Home Owners' Association ("HOA"). Approval of a maintenance agreement shall be a condition of site plan approval.

(d) The net site area of allowable impervious cover for each of the 61 residential lots shall be 8,403 square feet. In conjunction with each building permit, the builder shall provide the City with sufficient information regarding improvements to each lot so that the City can verify that the lot improvements do not exceed the allowed impervious cover. An Owner may obtain a bonus impervious cover credit equal to the water surface area of a swimming pool on the lot, provided an infiltration trench of equal surface area is installed on the lot in an area with uncompacted soils. The volume formula of the trench shall be the pool surface area in square feet multiplied by 1.3 inch capture volume divided by 12 to convert to cubic feet. For a 500 square foot swimming pool water surface area the formula would be  $500 \times 1.3" \div 12 = 54$  (cubic feet). The infiltration trench shall be constructed with 1.5" to 3" washed gravel aggregate with no fines and lined along the bottom and sides with a non-woven geo-textile filter fabric to separate the gravel from adjacent soil. Void space of the aggregate within the trench shall be assumed to be 35% in accordance with LCRA Highland Lakes Watershed Ordinance Technical Manual. The volume of the void space of the proposed trench shall equal 54 cubic feet for a 500 square foot example for a total trench volume of 154 cubic square feet ( $500 \times 1.3" \div 12 \div .35 = 154$  cubic feet). A trench with dimensions of 26' Length, 3' Depth and 2' Width will provide the required void volume for a 154 cubic foot trench. At least one pvc observation 'well' shall be provided for each infiltration trench or every 50', whichever is greater; it shall consist of a 6" or greater perforated pipe installed to the bottom of the trench and with a cleanout cover.

The Signal Hills Homeowners' Association shall be the responsible party ensuring the infiltration trench remains in good working order, including but not limited to removal and reinstallation of aggregate in the event 3" or more of silt build up is present in the observation 'well.' No less than once every twelve months, the HOA shall conduct an inspection and provide a written report to the City; in the event of inspection failure, the HOA shall have 30 days to cause repair to the trench and provide evidence of the same to the City.

Prior to Permit issuance, the City may require evidence that the design of the system meets the specifications described in this Agreement. Prior to final inspection of the pool, the owner of the Lot on which the infiltration trench is installed shall file notice of a Covenant of Obligation for Maintenance and Access with Travis County, Texas, Official Public Records that he/she or his/her successor(s) in ownership agrees to maintain and operate the Infiltration Trench System in perpetuity. The template for this Covenant of Obligation for Maintenance and Access is attached hereto as Exhibit D. A copy of the recorded Covenant shall be provided to the City of Bee Cave prior to the issuance of a Certificate of Completion for the swimming pool.

(e) The use of "Hardie panel" or "Hardie board panel" siding is prohibited as a building material. "Hardie plank" may be used in non-structural areas.

(f) All development and any land disturbance (except development allowed by the Requirements and except for construction of trails and HOA maintenance) within the water quality buffer zone ("WQBZ") is strictly prohibited. This prohibition shall be included in deed restrictions applicable to the Project and may not be amended without the consent of the City. Any lots located adjacent to a WQBZ or within the WQBZ shall mark the boundary of the WQBZ through the use of large stone blocks to separate the portion of the lot that can be occupied from the portion of the lot located in the WQBZ zone. Alternatively, instead of stone blocks, Developer may construct a wrought iron fence separating the WQBZ from the rest of the lot. Deed restrictions shall provide for maintenance and restricted access to the WQBZs and a maintenance plan including pest management and fertilizer restrictions shall be considered for approval by the City in conjunction with site plan approval.

(g) Tree removal, replacement or mitigation shall be conducted in accordance with the Preliminary Tree Mitigation Plan portion of the Concept Plan. A tree survey will be required in conjunction with building plan approval for each platted lot. However, no tree survey shall be required for trees located in the WQBZ or in any "No Cut Zones" as depicted on the Concept Plan or as created in conjunction with site plan approval so long as such areas are not disturbed and so long as the 40% removal prohibition as described in Section 32.05.002(e)(3) in the City's Code of Ordinances applies only to those areas of a platted lot outside of the WQBZ and the No Cut Zones. There shall be no tree removal or undergrowth removal or other land disturbing activities within the "No Cut Zone" or WQBZ without prior approval of the City. There shall be no tree or underbrush removal within the Project until the City issues a site or building permit approving the trees that may be removed. The tree survey shall include all trees (excluding *Celtis Occidentalis* (Hackberry), *Juniperus Virginiana*, and *Juniperus Ashei* (Common Cedar)) 4 inches in diameter or

greater. After construction of all buildings and development on a platted lot, a minimum of sixty percent (60%) of the surveyed trees (as measured in caliper inches) shall be left undisturbed. In the event that more surveyed trees (caliper inches) are removed than is authorized herein, Developer shall be required to replace 3 times the caliper inches for the amount removed in excess of 40%.

For example, if forty percent (40%) or less of the surveyed trees are removed, the Developer is not required to plant any replacement trees. If forty- one percent (41%) of the surveyed trees are removed, and one percent (1%) equals 10 caliper inches, the Developer shall be required to plant thirty (30) inches of replacement trees. Replacement trees shall be a minimum of three (3) caliper inches.

(h) Impervious cover on each residential lot shall not exceed the maximum allowed in 3.04d except as provided below. The maximum impervious cover limits on a residential lot may be increased by the lesser of 5% of the net lot area or 50% of the roof run-off that is isolated, treated and used for landscape irrigation on a residential lot; provided in no event shall the increase in impervious cover limit exceed 2500 square feet on any lot. Capture volume of roof run-off shall be in accordance with Exhibit E. Storage tanks for captured rooftop run-off shall be provided of the required size. All systems shall include an automated controller that is programmed to i) Delay irrigation 12 hours upon the tanks filling or partially filling with rain water; (ii) Empty the tanks within 60 hours after the 12 hour delay, such that the tanks can accept new required volume; and (iii) Cycle the irrigated zones to enhance the infiltration of the irrigated water. A single landscape irrigation system may be utilized for the irrigation of the captured rain water as supplemented by domestic water with a pump and floats. The irrigation system shall meet Irrigation and Plumbing Code Requirements.

The Signal Hills Homeowners' Association shall be the responsible party ensuring the rainwater harvesting system remains in good working order. No less than once every twelve months, the HOA shall conduct an inspection and provide a written report to the City; in the event of inspection failure, the HOA shall have 30 days to cause repair to the rainwater harvesting system and provide evidence of the same to the City. Prior to issuance of the first building permit for a home with a rainwater harvesting system, the HOA shall record with the Travis County Clerk evidence of agreement to this responsibility.

Prior to Permit issuance, the City may require evidence that the design of the system meets the specifications described in this Agreement. Prior to Final Inspection, the owner of the Lot that is granted additional impervious cover through the use of rainwater harvesting system shall file notice of a Covenant of Maintenance and Access with Travis County, Texas, Official Public Records that he/she or his/her successor(s) in ownership agrees to maintain and operate the Rainwater Harvesting System in perpetuity. The template for this Covenant of Maintenance and Access is attached hereto as Exhibit F. A copy of the recorded Covenant shall be provided to the City of Bee Cave prior to the issuance of a Certificate of Occupancy.



(i) Detention ponds shall be constructed in a free form shape to compliment and blend in to the natural grade and landscape. They shall be constructed with natural stone and boulders and with spillways of the same natural materials to create visual appeal.

(j) Vehicular connectivity to adjoin streets and neighborhoods shall be provided as depicted in the Concept Plan. On-street parking shall not be permitted. An Emergency Access drive shall be provided and finalized in conjunction with Site plan approval; it is to be located off of the Signal Hill Drive cul-de-sac and connect to Hamilton Pool Road. The gated access shall include a queuing distance of at least one hundred feet (100').

(k) A grading plan shall be required in conjunction with approval of site plan. The grading plan shall limit cut and fill so that the Project fits the slope and contours of the property and the Property is not made to fit the Project.

(l) Project shall not be subject to the sidewalk requirements set out in Section 30.03.005(a) of the Code of Ordinances.

(m) The Project shall not be subject to the street length maximum requirement of six hundred feet (600') as set out in Section 30.03.001(p) so long as the street lengths greater than six hundred feet (600') proposed for that Project are approved by ESD 6.

(n) Any fences adjacent to the seventy five foot (75') buffer zone along Hamilton Pool Road shall meet the City's Code of Ordinances and shall be uniform. Wrought iron or similar type open-fencing shall be allowed on residential lots, including any portion of such lot in a drainage easement so long as the fence design does not unreasonably obstruct water flow.

(o) A drainage easement in the north eastern corner of the Project (affecting Lots 20 and 21) will be required in accordance with site plan approval or plat approval, as applicable.

#### **IV.**

#### **AUTHORITY AND APPLICATION**

**4.01** Intentionally Deleted.

**4.02 Right to Continue Development.** The City agrees that it will not, during the term of this Agreement, impose or attempt to impose: (a) any moratorium on building or development within the Project or (b) any land use or development regulation not found in, or contemplated by, the Requirements or this Agreement that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Project. The preceding sentence does not apply to temporary moratoriums imposed throughout the City due to an emergency constituting an imminent threat to the public health or safety provided that any such moratorium will continue with respect to the Project only during the duration of the emergency.

## V.

### TERMS AND REMEDIES

**5.01 Term.** The term of this Agreement as to the Property will commence on the Effective Date and continue for a period of fifteen (15) years from the Effective Date of the 2017 PDD, which is August 8, 2017, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City, Property Owners and Developer.

**5.02. Termination and Amendment by Agreement.** This Agreement may be terminated or amended as to the Property at any time by mutual written consent of the City, Developer and the Property Owners. If such termination shall occur at a time when any Concept Plan or site plan has been approved for any contemplated development activity on the Property, such termination shall render any approved site plan or Concept Plan void and no development previously approved shall be undertaken on the Property.

## VI.

### REMEDIES

#### 6.01 Default/Limitation on Damages

(a) It shall be a default hereunder by a party, if such party shall fail to perform any of its obligation hereunder and such failure shall remain uncured following the expiration of ten (10) business days from and after the date the failing party receives written notice of such failure from the non-defaulting party; provided, however, that in the event the default is of a nature that cannot be cured within said ten (10) day period, the defaulting party shall have such longer period of times as may be reasonably necessary to cure the default in question; but, in no event shall either party have more than forty-five (45) days to cure any specific default.

Should any default remains uncured following the expiration of the applicable cure period, the non-defaulting party shall be entitled, as its sole and exclusive remedy in such event, to seek (i) specific performance of the obligation in question from the defaulting party and/or (ii) injunctive relief from a court of proper jurisdiction. In addition to the foregoing, should the Property or any portion thereof ever be in violation of the terms and conditions of this Agreement, the City shall also be entitled to bring an action to require the restoration or repair of the Property (or the portion thereof which is in violation of this Agreement, as applicable) to a condition that complies with the terms of this Agreement (*e.g.* require the removal or modification of any building that does not comply with the requirements of this Agreement).

(b) EACH PARTY WAIVES ANY AND ALL OTHER REMEDIES WHICH SUCH PARTY MAY HAVE AGAINST THE OTHER AT LAW OR IN EQUITY AS A RESULT OF SUCH OTHER PARTY'S DEFAULT HEREUNDER INCLUDING, WITHOUT LIMITATION, THE RIGHT TO BRING AN ACTION FOR DAMAGES AGAINST THE OTHER FOR BREACH OF THIS AGREEMENT, PROVIDED HOWEVER, THIS WAIVER DOES NOT INCLUDE A WAIVER BY THE CITY FROM THE NORMAL EXERCISE OF ITS

AUTHORITY AND POLICE POWERS AGAINST A PARTY OR THIRD PERSON FOR ENFORCEMENT OF THE REQUIREMENTS BY CIVIL OR CRIMINAL PROCESSES, AS APPLICABLE, OR FOR ANY VIOLATION OF THE REQUIREMENTS, OR FROM A SUBSEQUENT ZONING ORDINANCE, OR FROM THE TERMS AND CONDITIONS OF A PERMIT OR OTHER APPROVAL RELATED TO DEVELOPMENT OF THE PROJECT IN ACCORDANCE WITH THE REQUIREMENTS.

## **VII.**

### **MISSCELLANEOUS PROVISIONS**

**7.01 Notice and Payments.** Any notice given under this Agreement must be in writing and may be given (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified at the address set forth below, or at the last address for notice that the sending party has for the receiving party at the time of mailing, and with all charges prepaid; (ii) by depositing it with the Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by facsimile with confirming copy sent by one of the other described methods or notice set forth. Notice by United States mail as provided in (i) will be deemed delivered, whether or not actually received three (3) days after the date of mailing. Notice given in any other manner will be effective only if and when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

**Property Owner(s):** Saturn Five Signal Hill, LLC  
6109 Turtle Point Drive  
Austin, TX 78746  
Attn: Evan Loomis  
Ph. (703) 517-4932

**City:**

**For Hand Delivery:** City of Bee Cave  
Bee Cave City Hall  
4000 Galleria Parkway  
Bee Cave, Texas 78738  
Attn: City Manager  
Ph. (512) 767-6614

**With a Copy to:** Patty L. Akers, City Attorney  
Akers & Akers  
13625 Pond Springs Road, Suite 204  
Austin, Texas 78729  
Ph. (512) 600-2305  
Fx: (512) 233-0801

The parties may change their respective addresses or addresses for those to receive copies, to any other address within the United States of America by giving at least five (5) days written notice to the other party.

**7.02 Severability; Waiver.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, valid, and enforceable provision, similar in terms to the illegal, invalid or unenforceable provision as is possible, unless such any such action would vitiate the terms of this Agreement, or be contrary to or inconsistent with, the intent of, or purpose or consideration for, either party entering into this Agreement. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will be deemed a waiver of such provision or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**7.03 Applicable Law and Venue.** The interpretation, performance, enforcement and validity of this Agreement are governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.

**7.04 Entire Agreement.** This Agreement and the agreements between the parties referenced herein, contain the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties as provided for herein. This Agreement and the agreements between the parties referenced herein, supersede all prior agreements between the parties concerning the subject matter hereof.

**7.05 Exhibits, Headings, Construction and Counterparts.** All agreements between the parties, schedules and exhibits referred to in or attached to this Agreement are incorporate into and made a part of this Agreement for all purposes. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts individually or taken together, bear the signatures of all of the parties.

**7.06 Time.** Time is of the essence in this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday. A legal holiday shall be any day observed by the City as a legal holiday.

**7.07 Attorney's Fees.** In the event it becomes necessary for either party hereto to file a suit to enforce this Agreement or any provisions of this Agreement, the party prevailing in such action shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney's fees and court costs incurred by such prevailing party in such suit.

**7.08 Assignment.** The Property Owner may assign its rights and obligations under this Agreement, only in connection with a sale or conveyance of the Property. Upon any sale or conveyance of the Property, or a portion thereof, or any interest therein, the Property Owner shall require all such purchasers, grantees and/or assignee to assume all obligations under this Agreement. Failure to do so shall constitute a material default under the terms of this Agreement. The City shall have no obligation to provide

notice or payments to an assignee, unless it has been furnished with this information in a timely manner. Any notice delivered to the last owner of the Property in the records of the City at the time notice is made, shall be conclusively deemed given in compliance with the terms of this Agreement.

**7.09 Binding Effect.** Any provision set forth in herein notwithstanding, the parties agree that provisions of this Agreement are and shall be deemed restrictions which touch and concern the Property, and shall be binding upon any assigns or successive owners of all or any portion of or interest in the Property and their respective heirs, successors and assigns. This Agreement shall be binding upon and inure to the benefit of, the parties, and future owners, tenants, subtenants and/or occupants of all or any portion of the Property, and their respective heirs, successors and assigns. This Agreement shall also be binding upon and inure to the benefit of the City and any successor which may succeed to its governmental powers and duties. For the purpose of this Agreement, the term Property Owner shall be deemed to include all assignees and successors to the Property Owner signing below, who owns the Property, or a portion thereof or an interest therein.

**7.10 Interpretation.** Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application be interpreted fairly and reasonably and neither more strongly for or against any party.


**7.11 No Third Party Beneficiaries.** This Agreement is not intended to confer any rights, privileges or causes of action upon any third party **Exhibits**. The following **Exhibits "A" – "D"** are attached and incorporated by reference for all purposes:

**7.12 Owners Representation.** Owner expressly represents and warrants that no other person or entities have an ownership interest in the Property.


- Exhibit "A":** The Property
- Exhibit "B":** The Concept Plan
- Exhibit "C":** The PD Zoning Ordinance
- Exhibit "D":** Template for Covenant of Obligation for Access and Maintenance of Infiltration Trench System
- Exhibit "E":** Template for Calculation of Capture Volume for Rainwater Harvesting System
- Exhibit "F":** Template for Covenant of Obligation for Access and Maintenance of Rainwater Harvesting System

The undersigned parties have executed this Agreement on the dates indicated below.

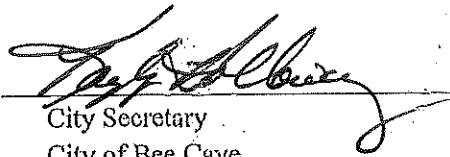
**CITY OF BEE CAVE, TEXAS,**  
A Home Rule municipality

By:   
Mayor  
City of Bee Cave

APPROVED:

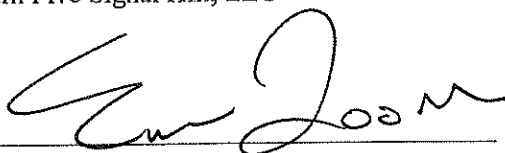
  
City Attorney  
City of Bee Cave

ATTEST:

BY:   
City Secretary  
City of Bee Cave

**OWNER :**

Saturn Five Signal Hill, LLC

By:   
Evan Loomis, Manager

**Exhibit "A"**

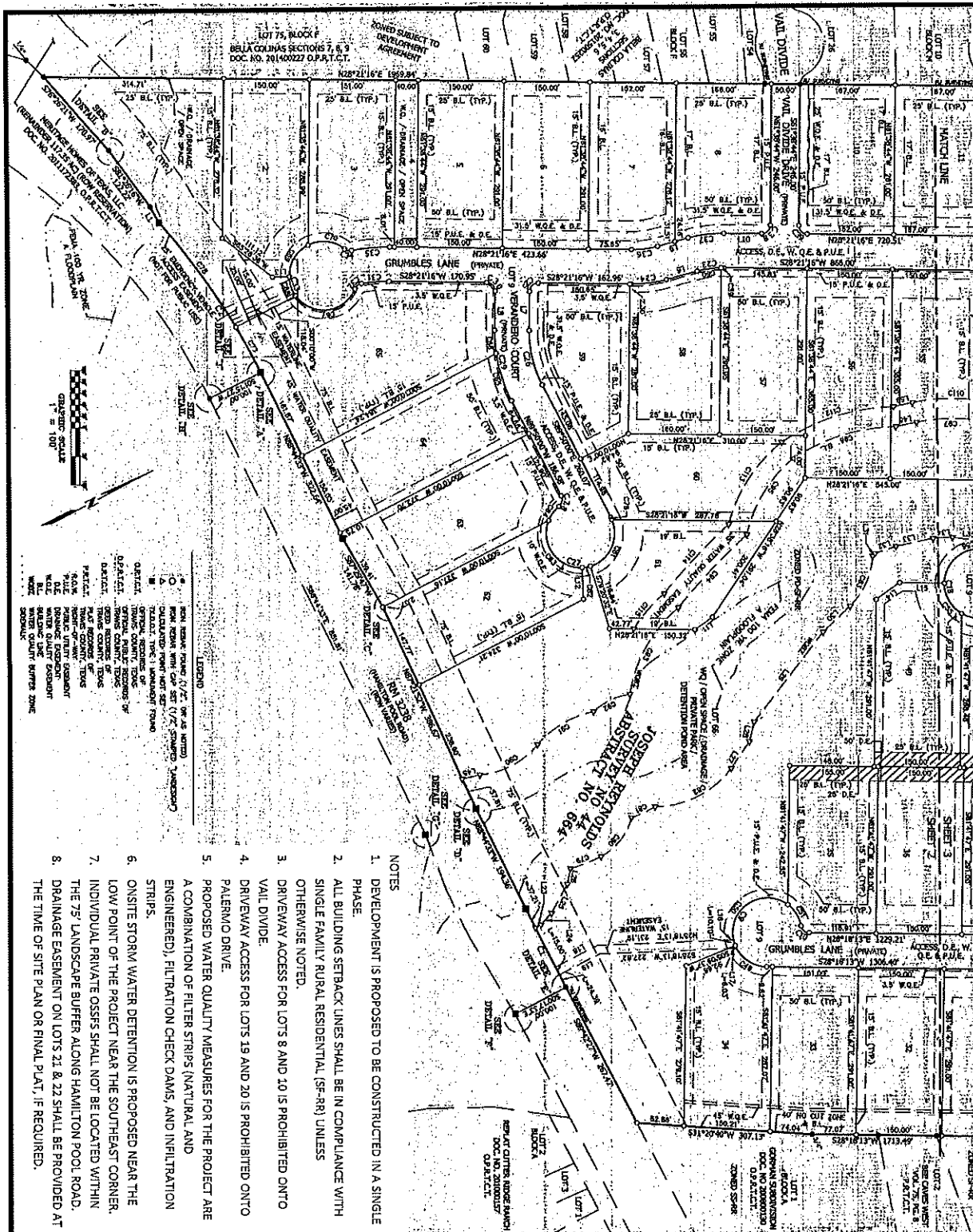
**Property Description**

94.42 acres comprising the entirety of land contained in the Signal Hill Subdivision Final Plat, as recorded in Document # 201800113 of the Official Public Records of Travis County, TX.

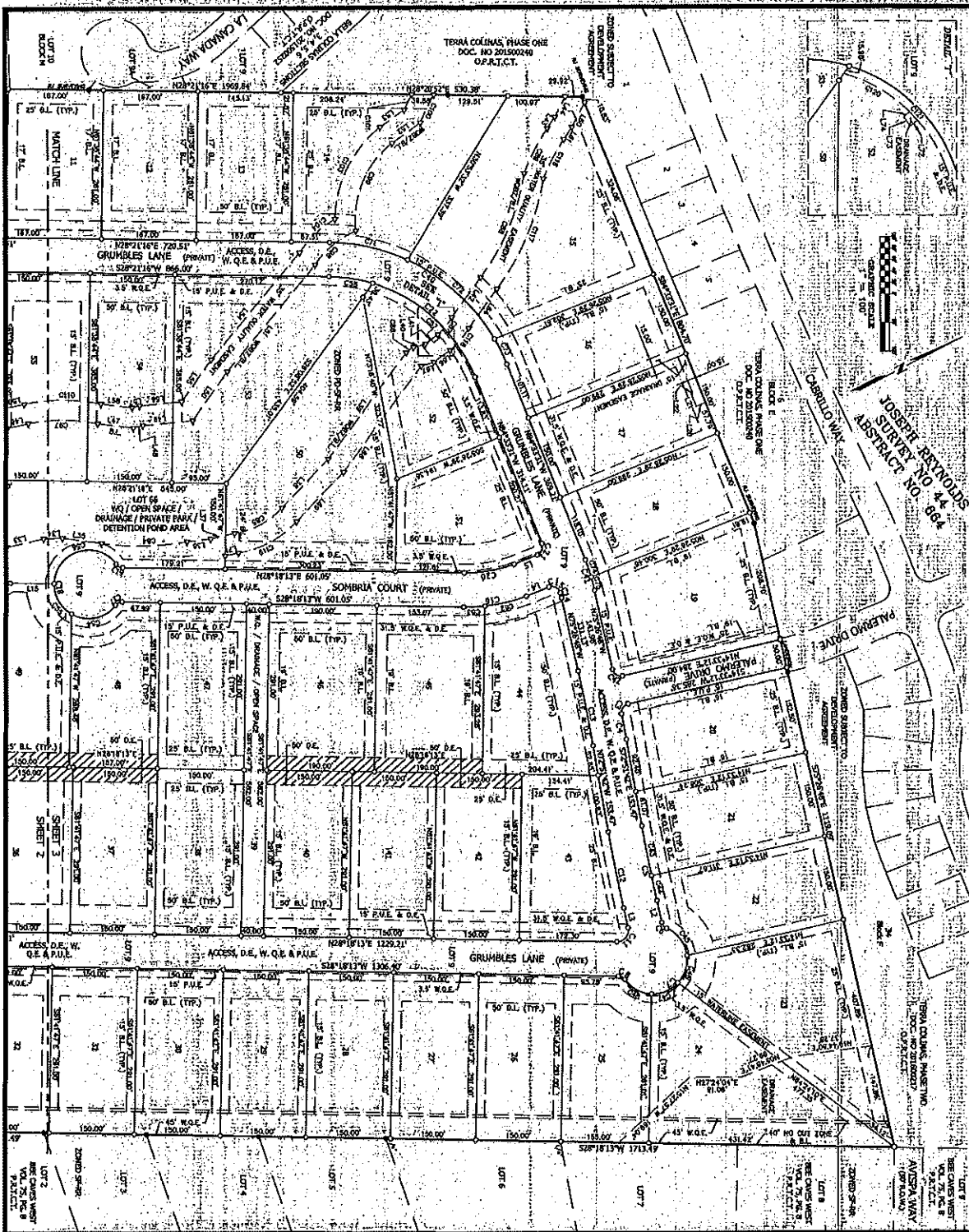
**Exhibit “B”**

**Concept Plan**





# **SIGNAL HILL CONCEPT PLAN**



# **SIGNAL HILL CONCEPT PLAN**

**Exhibit "C"**

**The PDD Zoning Ordinance**

Enclosed herein.

**Exhibit "D":**

**Template for Covenant of Maintenance and Access for Infiltration Trench System**

**COVENANT OF OBLIGATION FOR MAINTENANCE AND  
ACCESS FOR INFILTRATION TRENCH SYSTEM**

**STATE OF TEXAS**

§

**KNOW ALL MEN BY THESE PRESENTS**

**COUNTY OF TRAVIS**

§

§

Please take notice that the City of Bee Cave, Texas adopted Ordinance Number \_\_\_\_\_ which requires that no Property Owner may develop a Lot in Signal Hill Subdivision with more than 8,403 square feet of impervious cover on the residential lot except as authorized by Subsection 3.04(d) or 3.04(i) of the Planned Development Agreement for Signal Hill.

Lot \_\_\_\_\_, Signal Hill Subdivision according to the map or plat thereof recorded in Document Number 201800113 Official Public Records of Travis County, Texas has been approved by the City of Bee Cave, Texas for a bonus impervious cover credit equal to the \_\_\_\_\_ square feet of water surface area of the swimming pool constructed on the Lot by installation of the approved Infiltration Trench under Building Permit Number BP \_\_\_\_\_.

Owner of said Lot \_\_\_\_\_ hereby acknowledges, covenants and agrees to maintain the Infiltration Trench in good working order as a condition for exceeding the otherwise allowed maximum impervious cover of 8,403 square feet which has been approved under Certificate of Occupancy Number \_\_\_\_\_ and consents to enforcement of this Maintenance Covenant by the Signal Hill Estates Home Owners Association, Inc. and to grant the Association and the City access for inspection and maintenance of the Infiltration Trench System. This Covenant shall run with the Lot and bind future owners of the Lot. The City of Bee Cave reserves the right to enforce compliance with the Certificate of Occupancy in accordance with its municipal authority.

Owner of Lot

By: \_\_\_\_\_

Signal Hill Subdivision

By: \_\_\_\_\_

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, on behalf of said Owner.

\_\_\_\_\_  
Notary Public in and for the State of Texas

**Exhibit “E”:**

**Template for Calculation of Capture Volume for Rainwater Harvesting System**

# IMPERVIOUS COVER CREDIT FOR RAINWATER HARVESTING

City of Bee Cave - TCSS Manual Sections 5.3.1 and 5.3.2

*This table determines which is lesser, 5% of the Net Site Area or 50% of the Equivalent Roof Area, which dictates the maximum allowable increase in impervious cover via rainwater harvesting.*

## DESIGN DATA

Roof Area in Square Feet \_\_\_\_\_ sf

Roof Area in Acres  
[Roof Area in SF/43560] \_\_\_\_\_ ac

TSS Background Pollutant Load  
[55\*1.18\*.2267\*Roof Area in acres] \_\_\_\_\_ lbs/yr

TSS Developed Pollutant Load  
[166\*22.9\*.2267\*Roof Area in acres] \_\_\_\_\_ lbs/yr

TSS Load Caused By Development  
[TSS DPL - TSS BPL] \_\_\_\_\_ lbs/yr

- SYSTEM TO BE DESIGNED TO ACHIEVE THE FULL 5% INCREASE IN ALLOWABLE IMPERVIOUS COVER:

Net Site Area \_\_\_\_\_ ac.

5% of Net Site Area \_\_\_\_\_ ac.  
[Net Site Area in Acres \*5%]

Minimum Pollutant Load Treatment \_\_\_\_\_ lbs/yr  
[95% \* TSS Load Caused by Development]

Equivalent Area Required for Minimum Load \_\_\_\_\_ ac.  
[Min. Pollutant Trtmt Load/(166\*22.9\*0.2267)]

50 % of Equivalent Roof Area \_\_\_\_\_ ac.  
[Equivalent Area x 50%]

*Allowable increase in impervious cover is the lesser of 5% of Net Site Area or 50% of Equivalent Roof Area*

## RAINWATER HARVESTING CALCULATIONS FOR 5% IMPERVIOUS COVER CREDIT

REQUIRED ROOFTOP AREA [EQUIVALENT ROOFTOP AREA REQUIRED FOR MINIMUM LOAD; derived from table above]	=		ACRES
DRAINAGE AREA IMPERVIOUS COVER	=	100	%
RUNOFF DEPTH (BEE CAVE WQV CAPTURE DEPTH)	=	1	IN.
REQUIRED WATER QUALITY VOLUME (RAINWATER HARVESTING TANK SIZE) = [REQUIRED ROOFTOP AREA IN ACRES * DRAINAGE AREA IMPERVIOUS COVER/100 *43560*RUNOFF DEPTH/12]	=		CF
TOTAL GALLONS = [REQ'D RAINWATER HARVESTING TANK SIZE*7.48]	=		GALLONS

**Exhibit “F”:**

**Template for Obligation of Access and Maintenance of Rainwater Harvesting System**



**OBLIGATION FOR ACCESS AND MAINTENANCE OF RAINWATER HARVESTING SYSTEM**

STATE OF TEXAS           §  
                                      §  
COUNTY OF TRAVIS       §

**KNOW ALL MEN BY THESE PRESENTS**

Please take notice that the City of Bee Cave, Texas adopted Ordinance Number \_\_\_\_\_ which requires that any Property Owner that develops a Lot in Signal Hill Subdivision with more than 8,403 square feet of impervious cover on the residential lot shall install and maintain in good working order a rainwater harvesting system permitted and inspected by the City of Bee Cave, Texas.

Lot \_\_\_\_\_, Signal Hill Subdivision according to the map or plat thereof recorded in Document Number 201800113 Official Public Records of Travis County, Texas has been approved by the City of Bee Cave, Texas for a Rainwater Harvest System in conjunction with the issuance of Certificate of Occupancy under Building Permit Number BP \_\_\_\_\_.

Owner of said Lot \_\_\_\_\_ hereby acknowledges and agrees to maintain its Rainwater Harvest System in good working order as a condition for exceeding the otherwise allowed maximum impervious cover of 8,403 square feet which has been approved under Certificate of Occupancy Number \_\_\_\_\_ and consents to enforcement of this Maintenance Covenant by the Signal Hill Estates Home Owners Association, Inc. and to grant the Association and the City access for inspection and maintenance of the Rainwater Harvesting System. This Covenant shall run with the Lot and bind future owners of the Lot. The City of Bee Cave reserves the right to enforce compliance with this Certificate of Occupancy in accordance with its municipal authority.

Owner of Lot

By: \_\_\_\_\_

Signal Hill Subdivision

By: \_\_\_\_\_

STATE OF TEXAS       §  
                                      §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, on behalf of said Owner.

\_\_\_\_\_  
Notary Public in and for the State of  
Texas



Austin American-Statesman austin360 iahora sf

# PROOF OF PUBLICATION STATE OF TEXAS

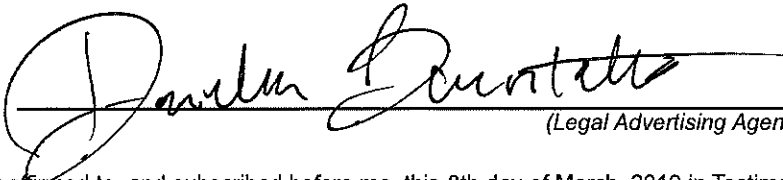
## PUBLIC NOTICE

Before the undersigned authority personally appeared Daniella A Buentello , who on oath says that he/she is a Legal Advertising Agent of the Austin American-Statesman, a daily published newspaper that is generally circulated in Bastrop, Bell, Blanco, Brazos, Burleson, Burnet, Caldwell, Colorado, Comal, Coryell, Fayette, Gillespie, Gonzales, Guadalupe, Hays, Kerr, Lampasas, Lee, Llano, Milam, Nueces, San Saba, Travis, Washington and Williamson Counties, and State of Texas, and that the attached advertisement was published in said newspaper, to wit: BEE CAVE, CITY OF, first date of publication 03/07/2019, last date of publication 03/07/2019, published 1 time(s), and that the attached is a true copy of said advertisement.

BEE CAVE, CITY OF  
4000 GALLERIA PKWY  
AUSTIN, TX 78738-6370

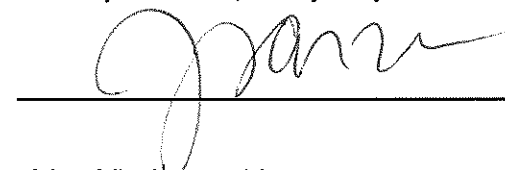
Invoice/Order Number:	0000462063
Ad Cost:	\$475.68
Paid:	\$0.00
Balance Due:	\$475.68

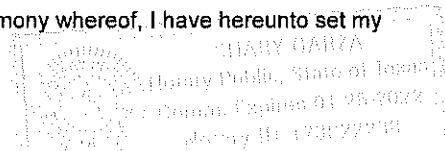
Signed

  
(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 8th day of March, 2019 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed

  
(Notary)



Please see Ad on following page(s).

BEE CAVE, CITY OF  
4000 GALLERIA PKWY  
AUSTIN, TX 78738-6370

Invoice/Order Number:	0000462063
Ad Cost:	\$475.68
Paid:	\$0.00
Balance Due:	\$475.68

**City of Bee Cave  
Notice of Public Hearings  
Rezoning Application**

Applicant: Courtney Mogonye-  
McWorther, Sprouse Shrader Smith  
PLLC

Application covers a request to change development standards for zoning district Planned Development Single Family Rural Residential (PDD-SF-RR) which encompasses the property included in the Final Plat of Signal Hill Subdivision, as recorded in Document No. 201800113 of the Official Public Records of Travis County, Texas. The proposed changes to the Planned Development District will amend the development standards in Ordinance 17-353 related to classification of impervious cover; tree removal, replacement, and mitigation; fencing within the 75-foot roadway buffer, and residential rainwater harvesting as a means to increase impervious cover allowances. The property being considered for rezoning is located north of Hamilton Pool Road approximately 900 feet west Cueva Drive.

City Council will hold a Public Hearing and consider the application at their regular meeting at 6:00 PM on March 26, 2019. The meeting will take place at City Hall, 4000 Galleria Parkway, Bee Cave, Texas 78738.

All persons interested in the changes may attend and will be given an opportunity to be heard. The application is on file for review in the Planning and Development Department, City Hall.

/s/ Megan Will  
City Planner

3/7/2019  
0000462063-01